

Testimony before the Committee on Banking and Financial Services

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*Research in the provenance of Art looted and sold during*

*World War II*

Dear Mr. Chairman,

It is a great honor for me to talk today to your distinguished committee on the efforts the Netherlands is making towards research and restitution of art looted and lost during World War II, both on a national level and by individual museums.

In Holland as in other countries the last few years have seen a new awakening to the history of the World War II and its aftermath. Where previously the atrocities committed by the nazi's occupied the center of interest, nowadays the handling of looting, recuperation and restitution after the war have also become the focus of attention, of historical research and a matter of guidelines for national governments in handling these sensitive issues.

My short expose on what happened in Holland after the War in matters of restitution and reinstatement of property rights will concern itself only with art as that is the only subject about which I feel that I can speak with any authority.

Looting of art by the Nazi's in Holland was much less done to public collections – as for example it happened in countries in Eastern Europe - than to the private owners of a few cherished paintings or some old furniture and blue-and-white Delftware. Of course the looting of the synagogues, the Jewish libraries or the Jewish Historical Museum all perpetrated by the E.R.R. was comparable to that which took place in other countries. But to me the image best

illustrating the looting in the Netherlands are the endless list of the Dienststelle Muhlmann the central organization for the looting of the German occupation. The thoroughness of the German administrator shines out from the detailed list made by policemen – often Dutch policemen -visiting Jewish households **before** they were looted: *Ein tisch, ein stuk balatum, wasche* and finally which would interest us *ein bild*. Some weeks later after the family had been deported, some other civil servant would visit the same house and note: *alles ist noch da* and *alles ist mitgenommen* whereupon all household goods were taken away.

Facts about this looting of the Netherlands were known to the Allies and the Inter-Allied Declaration of 1943 formed one of the measures to offer a solution both to looted property and that sold willingly to the Germans. As has been described extensively the Nazi leaders were avid collectors of art and the art trade in the Netherlands thrived as never before. To counter the selling of assets to the Germans the Government in exile in London had promulgated laws, which expressly forbade selling Dutch assets to the enemy. With regard to works of art, just as happened in France, already during the German occupation Dutch art historians started compiling lists of works of art, which they knew to have left the country. As soon as the war ended, efforts to track down works of art in Germany and to return them to their original owners were gathered together in a single service, called the *Netherlands Art Property Foundation (SNK)*. This service cooperated closely with the allied forces in Germany, especially the *Monuments, Fine Arts & Archives Service (MFA&A)*. On the basis of detailed lists made up from forms on which missing works of art were reported by private persons whose art had been looted or confiscated or persons and art dealers who had sold works of art to the Germans, lists made by the Foundation itself based on the administration of the Germans, such as cited above of transport lists of works of looted art and records of sales by auction houses and art dealers, the Allies tried to find as many works of art in Germany as possible. Their efforts were often severely hampered - as ours are still today - by the fact that only well-known works of art have descriptions detailed enough to recognize them easily or were even photographed. Most works of art had to be recognized on the basis of short descriptions while attribution to an artist was based more on the owner's memory or expectation than on a cool art historical evaluation.

As will be clear from what I said before about the looting itself, identification of a work of art listed for example: as "*Farmers making merry at a tavern* by the workshop of van ~~Octave~~" *Ostade* without any measurements or further description, is an extremely fortuitous business. Hundreds of paintings must exist answering to this kind of caption. Thus mistakes in identification of objects were made and not always corrected afterwards. Also works of art that were difficult to identify, mostly furniture and decorative art, were shipped back to the country that seemed the most likely country of origin. In this way most Delft blue-and-white tiles were sent to Holland though they might as well have come from a French collection.

All the same, seeing how the people in the office of the Netherlands Art Property Foundation worked during those years, at a time when Holland was recovering from its Great War losses and money and means to run an adequate administration were scarce, one is filled with admiration. Without a computer, but using an endless amount of paper files and lists ordered according to artist names, original owners, art dealers or auction houses they reconstructed the provenance of many works of art. They had a complex administration which was based on several ordering systems according to original owner, artist, transport from Germany and it has taken us more than half a year before we have grasped it in all its details.

Of the 10.000 of items which came back from Germany, more than half were works voluntarily sold during the German occupation of the Netherlands by the art trade thus violating Dutch war Laws. These became the property of the Dutch State. We do yet not know exactly how many recovered items were given back to their original owner. But from an inventory of 1804 paintings which we have researched closely, we know that 69 were given back to the owners, 13 were sent back to Germany because they did not come originally from Holland, 2 were sent to Belgium and 1 to Vienna. After the Foundation finished researching their provenance 469 paintings were sold at public auctions. In all, after completion in the 1950's of provenance investigations, about 2.000 paintings and a still unknown number of pieces of decorative art were sold by the Dutch state. These were works that the State felt at that moment that they had sufficiently researched and about which they were sure of their ownership. Details about the work of the Netherlands Art Property Foundation and the regulations, which they followed when deciding to give back, an item to its original owner can be found in a leaflet on restitution, which I have brought with me, in the introduction to the first report of the project *Origins unknown*. They can also be found at the website of the Netherlands embassy in Washington ([www.netherlands-embassy.org](http://www.netherlands-embassy.org)).

Today, there are still ca. 4000 paintings, prints, pieces of furniture and decorative objects that were recovered after the war in the State collection. They are all inventoried and most of the paintings have been published in the 1980.

Recently, questions concerning these remaining works of art have been asked. Might not modern methods of research, use of databases and vast modern documentation systems such as that of Netherlands Institute for Art History enable us to find more information about original owners than was previously possible? A pilot study was done for a hundred works of art, both paintings and decorative art. The results of the pilot study were published in Dutch and English in April 1998 under the title *Origins Unknown*, with introductory texts including information about the work of the Netherlands Art Property Foundation. Because sufficient new details concerning the provenance of these objects were found, the Dutch government decided to enlarge the study to comprise all items, which in the State collection were recuperated after the war from Germany. Four researchers paid by the State under the direction of the Inspectorate of Cultural Heritage are reconstructing the provenance of all recuperated works in the State collections using all the means, which we have today. Art dealers have opened old archives to us and we ourselves have found archives from auction houses etc. that seemed to have been lost. The research is supervised by the independent Ekkart Committee, named after its chairman dr. Ekkart who is director of the Netherlands Institute of Art history. The other committee members are the director of the Jewish Museum in Amsterdam, the former Minister for Culture and a representative of the Central Jewish Platform. In cases where new facts about owners arise, works can be returned to these or their heirs. Of course, after all these years much of the documentation which might have helped is lost or destroyed, but by gathering *circumstantial evidence* from catalogues of pre-war exhibitions of private collection, art dealers administrations, insurance lists, etc. links can be found which were lost before. We discovered going along that the most efficient method of reconstructing a provenance is not by going backwards from the present whereabouts and the present owner. In doing this one always encounters the black hole formed by the nearly complete lack of documentation during the years of the Second World War. We try to recover the location of the object in question also somewhere during the 1920's and 1930's and work forward from that point. By doing this we try to narrow the gap of the World War II years and thus make a deduction of what happened then.

Up till now we have researched some 800 items. Though the provenance of many has become much clearer, we will have to countenance eventually that for more than half of the objects all will contain blank spots.

Because a work of art can mean an extremely personal tie with the past and can have great emotional value for a family, the Dutch government plans to continue to proceed on a case-by-case basis regarding the restitution of works of art. No general measures are considered because we believe our method to be a viable one. In each case where new facts come to light, a decision about restitution of these works will be made by the Secretary of State for Culture. Thus, the works of art about which nothing is found, will stay available in the future if new facts come to light regarding their origins.

According to Dutch law theft and looting committed during the Second World War now fall under the statute of limitation. The Secretary of State can waive the right to the statute of limitation and will do so in those cases where:

- works of art are claimed which were not previously claimed and of which sufficient proof of their original ownership can be found
- new facts come to light which were not known by the parties concerned after World War II, and which alter substantively the evidence on which an earlier decision was based. If a written settlement of rights was reached between parties after the war, the State will abide by this.

Qst Finally, even as ~~an~~ historian and amateur historian with no legal expertise what so ever, I should like to address some of the more general issues.

Disregarding statutes of limitations – one of the mainstays of our juridical system should only be considered if substantive proof of previous ownership has been found.

Collective solutions for the NK collection of recovered objects i.e. auctions, transference to Jewish organizations or museums should not be considered as long as there is a chance that links to original owners can still be found.

Works of art at this moment in the possession of bona fides private owners are protected by Dutch civil law. However, in these cases possible claimants and present owners can apply to the Netherlands Institute for Art History and our office the Inspectorate of Cultural Heritage of the Ministry of Culture, for more information concerning provenance and possible postwar claims. Possible solutions for these cases could include arbitration or a decision by common consent along the lines suggested by the American Museums Association.

In the same way as the State Government is researching its collections, the Dutch museums under the aegis of the Dutch Museum Association are researching the acquisitions made during the war and in the after-war years to investigate whether they acquired knowingly or unknowingly objects which were looted or confiscated from Jewish owners. The museums are

conducting their own research aided by the Inspectorate for Cultural Heritage which checks the museum data and methods of research and adds facts which it has found during its own research of the State collection.

If works of art are found in these museums which have been stolen from Jewish owners, it is expected that the governing bodies of the museum - which may be local or provincial governments or private foundations - will act in the same way as the Dutch State and return these objects to their owners. It serves absolutely no purpose to make unsubstantiated guesses about the number of works of art with a "dubious past" which have been acquired by museums. Circumstances and especially behavior of museum directors have varied widely. Only thorough research into specific circumstances of an acquisition can a dubious origin is proved. The museum research has already resulted in several paintings and other objects being given back to the original owners and their families.

Objects, which are of extremely dubious origin and in several objects of which the original owners have been traced and ~~which~~ will be given back shortly. On the other hand a nearly unknown history has come to light in the stories of how museum hid works of art for Jewish owners during the war. In this regard the municipal museum of Amsterdam deserves special mention where they found room to house as many collections as they did, is still to me

The first report of the museums investigation has just been published the research as such will be finished in this year. The State investigation will be finished in three years time and its results will be published during those years in regular reports. We hope in this way to solve most outstanding questions though truth commands us to say that some of these will probably never be answered.